

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	MM Docket No. 96-47
)	
Oakhill-Jackson Economic Development Corporation)	
)	
Licensee of Station KOJC(FM))	
Cedar Rapids, Iowa)	
)	
Order to Show Cause Why the License for Station KOJC(FM))	
Cedar Rapids, Iowa)	
Should Not Be Revoked)	

MEMORANDUM OPINION AND ORDER

Adopted: September 17, 1997

Released: September 19, 1997

By the Chief, Mass Media Bureau:

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration a Petition for Reconsideration timely filed on July 29, 1996, by Oakhill-Jackson Economic Development Corporation ("Oakhill") and Friendship Communications, Inc. ("Friendship"). Oakhill and Friendship request that the Commission (a) reconsider its June 28, 1996, Order (DA 96-1048) revoking the KOJC(FM) license; and (b) grant the application to assign the KOJC(FM) license from Oakhill to Friendship (File No. BALED-960607GZ). For the reasons that follow, we deny reconsideration.

2. This proceeding began on March 19, 1996, when the Mass Media Bureau released its Order to Show Cause and Hearing Designation Order, DA 96-337 ("HDO"). The HDO ordered Oakhill to show cause why the license for KOJC(FM), Cedar Rapids, Iowa should not be revoked. The Commission's records indicated that KOJC(FM) had been off the air since December 31, 1993, and had been off the air without authority since November 21, 1994. By Order, FCC 96M-126, released May 24, 1996, Administrative Law Judge ("ALJ") Edward Luton terminated the hearing proceeding because Oakhill had failed to file the requisite notice of appearance. Pursuant to Section 1.92 of the Commission's Rules, Judge Luton also certified the case to the Commission. A copy of the ALJ's Order was mailed to Oakhill. Upon review of the facts of the case, pursuant to delegated authority, the Bureau determined that Oakhill had no intent to resume broadcast operations and had violated Sections 73.1740 and 73.1750 of the Commission's Rules. Accordingly, the Bureau concluded that Oakhill was not qualified to remain the licensee of Station KOJC(FM), and it issued the Order which revoked the station's

license. Oakhill and Friendship seek reconsideration of the Bureau's Order.

3. Reconsideration is appropriate where the petitioner shows either a material error or omission or raises additional facts not known or not existing until after the petitioner's last opportunity to present such matters. See WWIZ, Inc., 37 FCC 685, 686 (1964), aff'd sub nom. Lorain Journal Co. v. FCC, 351 F.2d 824 (D.C. Cir. 1965), cert. denied, 383 U.S. 967 (1966). Applying these standards, reconsideration of the Bureau's Order is not appropriate as discussed below.

4. Oakhill observes that the Bureau's Order failed to consider the June 7, 1996, application to assign the KOJC(FM) license, as well as a June 18, 1996,¹ letter from the Commission and the licensee's response thereto, in which Oakhill explains the reasons for KOJC(FM)'s silence. Oakhill contends that had these matters been considered, revocation of its license for KOJC(FM) would not have occurred. We disagree.

5. As explained in the Bureau's Order, we concluded in light of the extended period of KOJC(FM)'s unauthorized silence, that Oakhill had no intent to resume broadcast operations. This conclusion is further supported by Oakhill's failure to participate in the proceedings that resulted in its license revocation. Prior to its license being revoked, administrative proceedings were held to determine if Oakhill was qualified to remain the licensee of KOJC(FM). Oakhill failed to file the requisite notice of appearance, which precipitated the ALJ's Order terminating the hearing proceeding and certifying the case to the Commission. Other than file the noted assignment application, after having waived the right to a hearing, Oakhill did nothing to indicate that it intended to resume operations on KOJC(FM) or otherwise protect its license. The submissions of Oakhill and Friendship do not alter the Bureau's assessment because they plainly admit that Oakhill would not return the station to the air. Thus, although Friendship supposedly makes a commitment in the assignment application to return the station to the air, the instant situation is distinguishable from Southwestern Broadcasting Corporation, 11 FCC Rcd 14880 (1996), where the licensee of a silent station participated in the hearing process; took affirmative steps to resume broadcast operations during the pendency of the hearing process and did, in fact, return the station to the air. See also, Keyboard Broadcasting Communication, 10 FCC Rcd 4489 (MMB 1995); Cavan Communications, 10 FCC Rcd 2873 (ALJ 1995); and David Lee Communications, Inc., 9 FCC Rcd 1656 (ALJ 1994). Since Oakhill did not participate in the hearing process; took no steps to return KOJC(FM) to the air; and, in fact, did not do so, we conclude that reconsideration of our Order revoking that license is not warranted.


6. Accordingly, **IT IS ORDERED**, that the petition for reconsideration filed July 29, 1996, by Oakhill-Jackson Economic Development Corporation **IS HEREBY DENIED**.

¹A review of the Commission's files failed to reveal any correspondence from the Commission to Oakhill dated June 18, 1996.

7. **IT IS FURTHER ORDERED**, that the application filed June 7, 1996, by Oakhill-Jackson Economic Development Corporation to assign the KOJC(FM) license to Friendship Communications, Inc., **IS HEREBY DISMISSED** as moot.

8. **IT IS FURTHER ORDERED**, that a copy of this Order shall be sent by certified Mail - Return Receipt Requested to Oakhill-Jackson Economic Development Corporation and to Friendship Communications, Inc.

FEDERAL COMMUNICATIONS COMMISSION


Roy A. Stewart
Chief, Mass Media Bureau